

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

RONALD OLAJIDE,

No. C 12-5512 PJH

Petitioner/Defendant,

**ORDER REMANDING CASE**

vs.

PEOPLE OF THE STATE OF  
CALIFORNIA,

Respondent/Plaintiff.

Ronald Olajide has filed a notice of removal seeking to remove a misdemeanor criminal prosecution from Alameda County Superior Court. Olajide has apparently been charged with misdemeanor escape from custody and with misdemeanor resistance, obstruction, or delay of a peace officer. In conjunction with his notice of removal, Olajide also filed a "motion to dismiss for lack of corpus delicti."

Olajide seeks to remove the case under 28 U.S.C. § 1443(1), which provides that:

Any of the following civil actions or criminal prosecutions, commenced in a State court may be removed by the defendant to the district court of the United States for the district and division embracing the place wherein it is pending:

(1) Against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof.

To remove a case under § 1443(1), the criminal defendant must meet a two-pronged test. First, "it must appear that the right allegedly denied the removal petitioner arises under a federal law 'providing for specific civil rights stated in terms of racial equality.' "

1 *Johnson v. Mississippi*, 421 U.S. 213, 220 (1975) (quoting *Georgia v. Rachel*, 384 U.S.  
2 780, 792 (1966)); see also *Davis v. Superior Court of California*, 464 F.2d 1272 (9th  
3 Cir.1972) (explaining that removal jurisdiction under § 1443(1) is specific and extremely  
4 narrow; claims must relate to statutes explicitly protecting equal racial civil rights). Second,  
5 it must appear “that the removal petitioner is ‘denied or cannot enforce’ the specified  
6 federal rights ‘in the courts of the State.’ ” *Johnson*, 421 U.S. at 220 (citation omitted). This  
7 generally requires a showing that a state law or constitutional provision denies the  
8 defendant an opportunity to raise a federal right. *Id.*

9 Olajide’s petition for removal is not particularly comprehensible, and it appears that  
10 he is arguing that various state officials, including judges, have conspired to deny him his  
11 equal civil rights based on his race. Because Olajide has failed to show that state law or  
12 the state constitution denies him his ability to raise a federal right, the court finds that on its  
13 face the petition lacks merit and that summary remand is appropriate.

14 Additionally, Olajide has failed to comply with 28 U.S.C. § 1455 which governs the  
15 procedure for removal of state court criminal prosecutions. That statute requires Olajide to  
16 attach “a copy of all process, pleadings, and orders served upon such defendant or  
17 defendants in such action,” which he has failed to do. See 28 U.S.C. § 1455(a). Failure to  
18 do so similarly requires summary remand. *Id.* at § 1455(b)(4).

19 For these reasons, the court DENIES Olajide’s motion to dismiss for lack of corpus  
20 delicti and summarily remands the matter to the Alameda County Superior Court. The clerk  
21 shall close the case.

22 **IT IS SO ORDERED.**

23  
24 Dated: October 31, 2012

  
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PHYLLIS J. HAMILTON  
United States District Judge